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HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NOs:14563 & 15479 of 1995

DATED:17-03-2006

W.P.No.14563 of 1995:

Between:

R.Subbarao

..... PETITIONER

AND

1. The Deputy Registrar of Co-operative Societies (Dairy), O/o. Collectorate, Prakasam District at Ongole and another.

.....RESPONDENTS

AND

W.P.No.15479 of 1995:

Between:

G.Peddabbai

..... PETITIONER

AND

1. The Deputy Registrar of Co-operative Societies (Dairy), Prakasam District at Ongole and 2 others.

.....RESPONDENTS

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COMMON ORDER:

W.P.No.14563 of 1995 is filed by one R.Subbarao questioning the action of the second respondent in placing him under suspension vide proceedings dated 27-06-1995. This Court, by order in W.P.M.P.No.17788 of 1995 dated 12-07-1995, suspended the operation of the proceedings dated 27-06-1995 and consequent thereto, Sri R.Subbarao continued in the service of the Milk Producers Co-operative Union.

2. W.P.No.15479 of 1995 is filed by Sri G.Peddabbai questioning the proceedings dated 13-06-1995, whereunder the action impugned is that of the Deputy Registrar in informing the Special Officer that he was not competent to revert Sri R.Subbarao from the post of Secretary to the post of Tester, Sudivaripalem Milk Producers Cooperative Society, Inkollu Mandal, Prakasam District, with a request that R.Subbarao be continued in service as a Paid Secretary.

3. Both the writ petitions were heard together and are being disposed of by a common order.

4. It is the case of Sri R.Subbarao, the petitioner in W.P.No.14563 of 1995, that consequent upon the proceedings of the first respondent dated 06-06-1995 directing the Special Officer to reinstate Sri G.Peddabbai as Paid

Secretary, several members of the society submitted representation leveling allegations with regards his past conduct and had requesting that the reinstatement order of Sri G.Peddabbai be revoked. Petitioner would contend that the members had also represented that a detailed enquiry be conducted into the various mis-deeds of Sri G.Peddabbai. Reference was made to the proceedings dated 13-06-1995 whereunder the first respondent directed the second respondent to continue the petitioner as Paid Secretary. The first respondent is said to have addressed a letter dated 14-06-1995 informing the second respondent that the petitioner Sri R.Subbarao should be the Additional Secretary. Questioning the action of the respondents, W.P.No.12426 of 1995 was filed and this Court by order dated 22-06-1995 suspended the operation of the order whereby the petitioner Sri R.Subbarao was asked to continue as an additional secretary. This Court further directed that he be continued as a Paid Secretary. Sri R.Subba Rao is said to have approached the second respondent to continue him as a Paid Secretary. He would state that he was under treatment for severe neck pain from 19-06-1995 to 02-07-1995. According to him, it is only with a view to appoint Sri G.Peddabbai as a Paid Secretary that the impugned order dated 27-06-1995 was passed placing the petitioner Sri R.Subbarao under suspension on the ground that he did not return the records. He would contend that as per bye-law No.31 (xv) of the Society, the Paid Secretary is the custodian of all accounts and registers and since this Court directed that he be continued as a Paid Secretary, the question of returning the records did not arise. He would urge that never before was he asked to return any records of the society. With regards the allegations in the order of suspension that he had misappropriated an amount of Rs.11,000/-, Sri R.Subba Rao would contend that it is his duty as a Paid Secretary to disburse cash for payments to milk suppliers day to day and in the event of delay in sanctioning the amounts by the apex District Society, he has necessarily to maintain cash

balance in order to make payments to the members who produce and supply milk to the society. Sri R.Subba Rao would state that there is a bank balance of Rs.7,465/- and the remaining amount was utilized towards miscellaneous expenditure for the society and this allegation of misappropriation was made without looking into the records. He would seek to have the order of suspension dated 27-06-1995 quashed.

5. No counter-affidavit is filed on behalf of the respondent.

6. The facts in W.P.No.15479 of 1995 are that Sri G.Peddabbai, while working as a Paid Secretary, was suspended from service from 27-12-1991 to 26-01-1992 and again upto 27-02-1992. He filed W.P.No.2114 of 1992 and this Court, while disposing of the writ petition, directed the respondent to take an appropriate decision before passing any further orders extending the order of suspension, leaving it open to Sri G.Peddabbai to question the same under Section 61 of A.P. Co-operative Societies Act. Sri G.Peddabbai is said to have approached the first respondent and to have submitted a representation and after the said representation was considered, proceedings dated 06-06-1995 was issued directing the second respondent to reinstate him as a Paid Secretary of Sudivaripalem Milk Producers Cooperative Society. The second respondent, by resolution dated 07-06-1995, is said to have reinstated Sri G.Peddabbai as per the directions of the first respondent and he took charge of the post of Paid Secretary of the society on 07-06-1995 itself. During the period of suspension of Sri G.Peddabbai, one M.Haribabu was appointed as a Paid Secretary temporarily. While he worked for sometime, he did not attend the duties regularly. Thereafter, R.Subbarao, the petitioner in W.P.No.14563 of 1995 and the third respondent in W.P.No.15479 of 1995, was appointed as a Paid Secretary on a temporary basis in the place of Sri G.Peddabbai and was, subsequent to the order of the first respondent dated 06-06-1995, reverted to

his substantive post of Tester. As stated above, Sri R.Subba Rao approached the first respondent who passed the impugned order dated 13-06-1995 requesting the second respondent to continue him as a Paid Secretary. Sri G.Peddabbai would contend that he was continuing as Paid Secretary of the Society as a permanent employee and Sri R.Subba Rao, a temporary employee appointed in his place could no longer continue after he was reinstated pursuant to the order dated 06-06-1995. Sri G.Peddabbai would allege that the first respondent was pressurized and was made to issue the impugned proceedings. He would contend that there cannot be two Paid Secretaries for one Society and that the third respondent was trying to interfere with his functions and was causing inconvenience and loss to him. This Court, by order in W.P.M.P.No.18876 dated 19-07-1995, directed that Sri G.Peddabbai, working as a Paid Secretary of the second respondent Society, shall not be disturbed.

7. No counter is filed in this writ petition also.

8. As a result of the interim orders of this Court, two Paid Secretaries for one Society continue to function against the sanctioned post of one Paid Secretary. Absence of a counter-affidavit from the respondents would indicate their indifference to the plight of the society whose finances have been needlessly drained in making payment to two different persons for discharging functions of the single post of paid Secretary. It is also curious to note that the very same Deputy Registrar of Cooperative Societies, Sri J.Chinna Raju, who passed the proceedings dated 06-06-1995 directing that Sri G.Peddabbai be reinstated as a Paid Secretary, within one week thereafter, vide proceedings dated 13-06-1995, directed that Sri R.Subbarao also be continued as a Paid Secretary. The allegations made by both Sri R.Subbarao and Sri G.Peddabbai that pressures were brought, on officials to pass the orders dated 06-06-1995 and 13-06-1995, cannot be said to be without merit. As to how the very same

Deputy Registrar Sri J.Chinna Raju could have within a span of one week, passed two conflicting orders directing that two persons be continued in the single post of Paid Secretary of the Sudivaripalem Milk Producers Cooperative Society, defies comprehension. This is a matter which would certainly require a detailed enquiry to be made and, if necessary, action taken against the officials responsible for the needless financial burden placed on the Sudivaripalem Milk Producers Cooperative Society in having to pay salaries to two persons for discharging functions of one single post of Paid Secretary.

9. The Registrar of Cooperative Society, Hyderabad, shall examine the matter and take an appropriate decision in this regard within two months from the date of receipt of a copy of this order. The Registrar of Cooperative Societies, if the then Deputy Registrar, Sri J.Chinna Raju, still continues to remain in service, shall call for his explanation as to how two contrary orders could have been passed within a span of less than one week. Responsibility shall be fixed and necessary action shall be taken against the officers involved in such orders being passed. In view of the fact that this Court had passed interim orders in both these writ petitions and the interim orders have subsisted for more than a decade, it would be wholly inappropriate for this Court to vacate the orders as at present. The orders passed by this Court shall continue to remain in force till a final decision is taken by the Registrar of Cooperative Societies on this issue as to which of the two, (Sri R.Subba Rao or Sri G.Peddabbai), is entitled to continue as Paid Secretary of the Sudivaripalem Milk Producers Cooperative Society. Both the writ petitions are disposed of. However, in the circumstances without costs.

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17th March, 2006

SKM